276 U. S. 260; *Nichols v. Cole* (1920), 256 U. S. 222. A power of appointment reserved by the donor leaves the succession incomplete, and the estate may be taxed; the same rule applies if the power of appointment is reserved to another. *Bullen v. Wisconsin* (1915), 240 U. S. 925. As it is the transfer by termination upon death of the power of disposition that is being taxed, there can be no objection to the inclusion of the proceeds of insurance policies together with the other interests transferred by the death of the decedent. *Stebbins v. Riley* (1924), 268 U. S. 137, 44 A. L. R. 1454.

The laws governing the taxation of successions are applicable equally to transfers, when the transferor reserves to himself a general power of appointment. When such power is not exercised, the property passes at the death of the settlor or donor, and such transfer is taxable when it takes place; consequently a law effective prior to the death of the donor, but subsequent to the creation of the deed or policy is not retroactive as to the res or transfer being taxed. *Saltonstall v. Saltonstall, supra; Reinecke v. Northern Trust Co.* (1928), 49 S. Ct. 123, 73 L. Ed. (adv.) 117.

G. N. B., '29.

CONSTITUTIONAL LAW-EXERCISE OF POLICE POWER IN GENERAL STERILIZATION STATUTE.—In an action of mandamus to compel the surgeon of the state hospital for the insane to perform the operation of vasectomy on one of the inmates after a notice and hearing before the board of supervision the defendant, on a motion to quash, put in issue the constitutionality of the sterilization statute. R. S. Kans. 1923, 76-149 to 76-155; Const. U. S. Amend. 14. *Held*, a law relating to sterilization of inmates of certain state institutions is not unconstitutional as exceeding police power, nor as a denial of equal protection, nor as a denial of due process. *State ex rel. Smith v. Schaffer* (1928), 126 Kans. 607, 270 P. 604.

There has always been, since the beginning of time, a guarantee of "due process" of law based, if not upon a written constitution, then upon the rules of natural justice. *Munn v. Illinois* (1876), 94 U. S. 113. But whether or not sterilization of the insane constituted "due process" at common law is unknown. There seems to have been no cases raising such an issue.

The modern trend is in favor of upholding the constitutionality of a sterilization statute such as the one in the principal case, in accord with the holding of that case. *Buck v. Bell* (1927), 274 U. S. 200 is final authority upon the issue under the fourteenth amendment of the federal constitution in all controversies falling within this class of cases. *Smith v. Command* (1925), 231 Mich. 409, 204 N. W. 140, 40 A. L. R. 515 is in accord with the principal case but concerns a statute authorizing the sterilization of all defective persons. The reasons for sustaining a view such as this are obvious when the medical theory that certain kinds of insanity are hereditary is conclusively accepted, or is at least accepted to such an extent as to give rise to a reasonable belief in the mind of the legislature as to its soundness. Said Mr. Justice Holmes in *Buck v. Bell, supra*: "We have seen more

than once that the public welfare may call upon the best citizens for their lives. It would be strange if it could not call upon those who already sap the strength of the state for these lesser sacrifices—in order to prevent our being swamped with incompetence." But a strong dissenting opinion in *Smith v. Command, supra,* regarded only as "a very improbable theory" the conclusive presumption that insanity is hereditary.

Contra to the principal case are *Smith v. Board of Examiners of Feeble-Minded* (1913), 85 N. J. Law 46, 88 A. 963; *Osborn v. Thomson* (1918), 103 Misc. 23, 169 N. Y. S. 638; *Haynes v. Lapeer Circuit Judge* (1918), 201 Mich. 138, 166 N. W. 938, L. R. A. 1918 D. 233.

The statute in the last cited case was declared unconstitutional and void as class legislation because it concerned only those mentally defective who were confined in state institutions. This distinction is to be noted between this and the other Michigan case cited. It is the fourteenth amendment of the National Constitution, however, which again has been declared to be violated, so that all of these cases have been directly overruled by *Buck v. Bell*: None of these courts has declared a sterilization statute to be in violation of the state's constitutional guarantee of due process (present in practically all states), and the failure to do so probably supports the tendency shown in the holding of the principal case. S. H., '31.

CORPORATIONS—IMPLIED POWERS—ULTRA VIRES ACTS—OUSTER PROCEEDINGS.—The Long-Bell Lumber Co., a Missouri corporation, owned a large tract of land in Washington. In order to develop it, a gigantic undertaking was carried out requiring the expenditure of some thirty millions of dollars. This timber land included a small valley bordering on the Columbia and Cowlitz Rivers. Two mills were erected, one being the largest of its kind in the world. In order to secure high-type employees, the company laid out the model town of Longview. It built a large hotel, water and light plants, and put up about one-third of the residences. A ferry line and bus line were established. A railroad was built from the mills on the Columbia River to the site of the logging operations. As the whole valley was subject to floods, dikes were erected. To do this it was necessary to purchase dredges. A drainage district was organized under the laws of Washington to drain and improve the valley. Bonds were issued, which were guaranteed by the Long-Bell Company. To develop its land, the company engaged in real estate transactions. A national advertising campaign was undertaken in an effort to interest outside capital. The Longview Daily News was organized, although it has since passed into outside hands. The company subscribed for part of the stock in a loan and investment company, to help employees purchase land and build their own homes. The company also helped organize a bank, subscribing for part of its stock. This stock was later sold. Most of the foregoing activities were carried out through eleven subsidiary companies, whose stock was held by the Long-Bell Lumber Co. In 1926 the State of Missouri brought ouster proceedings against the Long-Bell Lumber Co. for engaging in ultra vires